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June 30, 2005

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The Honorable Alberto R. Gonzales
Attorney General of the United States
U. S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, D.C. 20530

Dear Mr. Attorney General:

I today learned that your office has conducted an investigation into the recent presidential election in Franklin County, Ohio, and essentially exonerated the misallocation of machines in that County. To say the least, I am flabbergasted that your office could reach such a casual conclusion without addressing the most serious charges of misallocation of votes in the County. I am also concerned that to this date I have yet to receive any substantive response to the many instances of voting irregularities and civil rights violations in the state of Ohio that I forwarded to your office on January 14, 2005.

With regard to your review of the allocation of voting machines in Franklin County, at the outset, you seem to take comfort from the fact that the allocation was approved by a bipartisan board of elections. The reality is misconduct and negligence should never be acceptable, whether it is bipartisan, partisan, or non-partisan. You also ignore the fact that in Ohio, members of the Boards are appointed by the Secretary of State – J. Kenneth Blackwell – who is distinctly partisan, and headed up by the Bush-Cheney election effort in Ohio.

More specifically, and with all due respect, your office seems to “miss the forest for the trees” in their analysis. In four pages of somewhat convoluted logic, the Civil Rights Division tends to focus on specific and largely irrelevant details regarding the black and white voting tendencies while missing the main point that tens of thousands of individuals were effectively denied their right to vote in the critical state in the entire election. Nowhere in your analysis did you bother to address any of the following:

- A *New York Times* investigation revealed that Franklin County election officials reduced the number of electronic voting machines assigned to downtown precincts and added them to the suburbs. "They used a formula based not on the number of registered voters, but on past turnout in each precinct and on the number of so-called active voters – a smaller universe. ... In the Columbus area, the result was that suburban precincts that supported Mr. Bush tended to have more machines per registered voter than center city precincts that supported Mr. Kerry."⁷⁹
- The *Washington Post* also found that Franklin County election officials decided to make do with 2,866 machines, even though their analysis showed that the county needed 5,000 machines.⁸⁰
- The Franklin County Board of Elections reported 81 voting machines were never placed on election day, and Franklin County BOE Director Matt Damschroder admitted that another 77 machines malfunctioned on Election Day.⁸¹ However, a county purchasing official who was on the line with Ward Moving and Storage Company, documented only 2,741 voting machines delivered through the November 2 election day,⁸² while Franklin County's records reveal that they had 2,866 "machines available" on election day.⁸³ This would mean that the even larger number of at least 125 machines remained unused on Election Day. Matt Damschroder, misinformed a federal court on Election Day when he testified that the county had no additional voting machines - in response to a Voting Rights Act lawsuit brought by the state Democratic Party that minority precincts were intentionally deprived of machines.⁸⁴
- After the election, the *Washington Post* also learned that in Franklin County, "27 of the 30 wards with the most machines per registered voter showed majorities for Bush." At the other end of the spectrum, six of the seven wards with the fewest machines delivered large margins for Kerry.⁸ The *Washington Post* also found that in Columbus this misallocation of machines reduced the number of voters by up to 15,000 votes.¹⁰⁴ In other words, the low number of machines created the low number of voters – not the other way around.

Moreover, hidden in your office's somewhat cursory analysis is an admission that the central allegation, that African-Americans were shortchanged voting machines, is true as the Department itself concedes that "the Board tended to allocate fewer machines to the 54 predominately black precincts per registered voter." I also must disagree with your office's dismissal of the common sense notion that election officials should have anticipated they needed more machines. This was, after all, one of the most hotly contested elections in recent history where voter interest was consistently remarkably high in public opinion polls. The Department concedes that it was well known that there were more first-time registrants in African-American

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precincts, but dismisses that this should have resulted in more machines in those areas, not less. Also, without explanation, the Department simply accepts that more African-American voters were forced to cast provisional ballots than white voters.

On a broader level, I am concerned that you chose to selectively investigate discrimination charges in the single county of Franklin, while more than 5 months after I submitted a detailed letter itemizing apparent wrongdoing throughout Ohio to the Department, I have yet to receive a single substantive response. This really causes me to wonder why your office is choosing to engage in and publicize inquiries which support the Administration, while ignoring – or at least delaying, review of -- other potentially more embarrassing requests. The attached letter of January 14 details several serious charges concerning Voter Intimidation and Misinformation; Improper Purging and other Misconduct; Caging of New Minority Voters; Misuse of HAVA Funds; Tampering of Voting Machinery and Records; Perjury by a County Board of Election Official; and the Misuse of the Great Seal of the United States on Secretary of State Blackwell's Personal Campaign Materials. I believe any credible review of the Ohio election warrants examination of these issues, and a written response as well.

Thank you for your attention to this important matter.

Sincerely,

A handwritten signature in black ink, reading "John Conyers, Jr." in a cursive style.

John Conyers, Jr.
Ranking Minority Member

Enclosure

cc: The Honorable F. James Sensenbrenner, Jr.
The Honorable William E. Moschella